

# **ERROR CORRECTIONS AND COLLECTION OF OVERPAYMENTS**

A.C.A. § 24-7-205

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## **REGULATIONS**

1. If a change or error in the System's records results in either an overpayment or underpayment to a member or beneficiary of the System, the Board authorizes the System to correct the error in the records and to adjust the benefit or other amount payable to the corrected amount.
2. If a member, former member, contributor, former contributor, retiree, beneficiary, or alternate payee under a qualified domestic relations order pursuant to A.C.A. §§ 9-18-101—103, is paid any benefit or payment by the System to which the person is not entitled, a receivable is created and the Board or its designee(s), may collect the amount due to the System as set forth in A.C.A. § 24-7-205.
3. Before making an adjustment of benefits or pursuing any other collection action under Nos. 1 and 2 above, a notice shall be provided to the person who is the subject of the adjustment. The notice will state the amount determined to be a receivable and the reasons underlying the determination. The notice shall also suggest alternate methods for payment of the receivable.
4. Appeals to dispute collections may be made in writing to the Executive Director if made within 30 days of the date of the original notice to the member, former member, contributor, former contributor, retiree, beneficiary, or alternate payee.

The Executive Director's de novo review may be appealed to the Board of Trustees for a de novo review by the Board. The affected party must send notice in writing to the Executive Director that the Executive Director's decision is being appealed within 30 days of the date of the Executive Director's review. The Board will hear the appeal in a regularly scheduled Board meeting. During the appeal process, retirement benefits will continue to be paid.

## **RULES** (As amended by Acts 465 and 468 of 2009)

1. The Board or its designee may waive adjustment or repayment of an overpayment to a member, former member, contributor, former contributor, retiree, beneficiary, or alternate payee if:

- A. The overpayment was not the result of the member's or the beneficiary's nondisclosure, fraud, misrepresentation, or other fault; and
  - B. The Board or its designee finds in his or her sole discretion that recovery of the overpayment or adjustment could be a manifest injustice.
- 2. If the System discovers a member owes any other amount relating to his/her service in the System, a notice shall be sent to the member requesting payment of such amount including applicable interest or penalty charges. However, the Board or its designee may, but is not required, to waive payment of any interest charges under this section if it finds that:
  - A. The amount owed was the result of an error by the System;
  - B. The error is not the result of the member's nondisclosure, fraud, misrepresentation, or other fault; and
  - C. Recovery of the amount would result in a manifest injustice to the member.
- 3. The Board authorizes the Executive Director to waive interest on required contributions under Nos. 1 and 2 above in an amount not to exceed \$5,000. Any request to excuse an interest amount exceeding \$5,000 shall be submitted to the ATRS Board for review. The Executive Director shall report to the Board any amounts excused under this section.
- 4. If required, a receivable under this section that is found by the Board or its designee to be uncollectible or for which adjustment or payment has been waived will be submitted to the Chief Fiscal Officer of the state for abatement pursuant to A.C.A. §§ 19-2-301 – 307.

**Adopted:** July 18, 2005

**Amended:** December 18, 2009